

**A RESPONSE TO THE
COMMITTEE ON ACADEMIC FREEDOM AND TENURE (CAFT) REPORT**

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January 6, 2015

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Introduction

We respect and appreciate the efforts of CAFT in undertaking a review of the Salaita controversy, and for conducting a thorough and reasoned assessment of the issues at stake. On the whole we share their diagnosis of where the decision-making process and the rationales for the decision not to hire Dr. Salaita were flawed. We do not agree with their recommendation of a proposed resolution: to convene yet another review committee within the LAS college to reconsider the case. We find this proposal to be unworkable, inconsistent with the Statutes, and unlikely to bring an end to the controversy.

Points of agreement with the CAFT report

1. On the process of decision-making. We agree that it was a serious error that the Chancellor “did not consult with any of the directly-concerned officers or units in the chain of those recommending the appointment before she acted to notify Dr. Salaita, on August 1, 2014, that she would not submit his appointment to the Board of Trustees” (p. 20). It should be noted, however that the Chancellor has acknowledged this and apologized repeatedly for the failure to consult.

We also agree with the CAFT report that “The Chancellor has stated that donors in no way influenced her actions with regard to Dr. Salaita. This investigation found no evidence that they did” (p. 6).

2. On the role of the Board. CAFT points out the conflicting accounts given between the Chancellor and the Chairman of the Board of Trustees: “The Chancellor has told the investigating committee that she believed that, based on the offer letter (Document 2) sent to Dr. Salaita, it was the Board’s decision to approve or disapprove his appointment. It was her understanding that, at the meeting, she and the Trustees had arrived jointly at the conclusions that the Board would not support Dr. Salaita’s appointment and that therefore she should not forward the appointment to them. . . . Trustee Chris Kennedy has stated that at this meeting the Board had not arrived at a position regarding Salaita’s appointment: “We [the Board] weren’t saying if you recommend him we were not going to approve. We were never close to that” (pp. 6-7).

We are also concerned by the existing practice of Board approval of faculty appointments after they have already begun work at the university (p. 16). This reinforces the perception that Board approval is purely *pro forma*. Any instance in which the Board would want to review an appointment must be done closer in time to the original recommendation, and well before a candidate begins work.

3. On academic freedom. We strongly affirm the AAUP position on academic freedom and their holding that extramural political speech is a protected area of free speech that generally should have nothing to do with the assessment of

academic qualifications (p. 9).

On the narrow issue of whether the academic freedom of Professors Robert Warrior and Vicente Díaz was violated – the appeal that actually triggered the CAFT investigation – we agree with CAFT’s conclusion that this was not the case.

CAFT does not conclude that Dr. Salaita’s academic freedom was compromised.

4. On civility. We agree that lack of “civility” is not an adequate basis on which to dismiss a faculty member, though we also agree that in general civility is an important standard of professional conduct (pp. 31, 35). It is an overstatement to say, as the Board of Trustees and University leadership stated, that “we must constantly reinforce our expectation of a university community that values civility as much as scholarship.”¹

5. On professional fitness. We agree with CAFT that there are legitimate questions that have been raised about Dr. Salaita’s professional fitness, and that by our own Statutes as well as AAUP’s principles “fitness” should be the standard on which decisions about hiring or dismissal ought to be based (pp. 27-28, 29).

Commentary on the CAFT report

Having affirmed these points of agreement, however, we note that a closer analysis of the facts and of the university Statutes and other policy documents complicates the issues under consideration. The remainder of this response will review these complicating factors and argue that once they are recognized the proposed solution offered by CAFT will be shown to be unworkable, inconsistent with the university Statutes, and unlikely to produce the outcome that we all want, which is to find a way of resolving the Salaita controversy. On the contrary, the proposed process would reopen wounds and re-enmesh the campus and the university in an intractable dilemma, to no good purpose.

We are guided in these analyses by three principles:

First, the Statutes are the overriding governing documents in our institution, and in any cases of inconsistency among other policy statements, or inconsistency between those policies and the Statutes, those conflicts must be resolved in favor of the Statutes.

Second, both the Statutes (Article XIII Section 7) and state law² define the Board of Trustees as the overarching authority in our organization. There is no campus-

¹ <https://illinois.edu/massmail/massmail/27181.html>

² <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1086&ChapterID=18>

(110 ILCS 305/7) (from Ch. 144, par. 28) Sec. 7. Powers of trustees.

(a) The trustees shall have power to provide for the requisite buildings, apparatus, and conveniences; to fix the rates for tuition; to appoint such professors and instructors, and to establish and provide for the management of such model farms, model art, and other

level decision which the Board could not overrule if it deemed it in the interests of the institution. The fact that the Board does so extremely rarely is a good thing, undoubtedly. But the fact that they do so rarely does not compromise in any way their underlying authority to do so.

Third, while it is a crucial principle that basic hiring decisions should reside closest to areas of academic expertise, and that deference ought to be given to those best qualified to judge the professional qualifications of job candidates, our governing documents make it clear that the employment recommendations of departments and colleges are always subject to further review. In this instance, the controversy over not hiring Dr. Salaita has affected faculty and students across the campus. Because the consequences of reopening that decision would affect the entire campus, to leave such a decision up to an ad hoc college committee would not only contravene the established processes and procedures codified in our governing documents, it would also deprive the majority of those affected from representation in the decision-making process.

In light of these three principles, we want to revisit (and complicate) the five points reviewed in the opening section.

1. On the process of decision-making. The decision-making process in the Salaita case was seriously flawed. But the following points complicate the story.

First, people have overlooked the fact that Dr. Salaita's initial appointment had gone through the entire review process, up to Board approval level, even though the content of his academic and political views were quite well-known. This puts the lie to the frequently repeated claim that his hiring was reversed because of his views on the Israel-Palestinian conflict. Dr. Salaita was initially offered a position in full awareness of those views.

The central problem with the Salaita case has always been that after the initial offer had been approved (and in this case accepted), new information came to light that, in the judgment of many people, required a reconsideration of the offer. Nothing in our policies, and nothing in the Statutes, anticipates such a (literally) extra-ordinary turn of affairs, and the CAFT report does not specify any clear procedure that should have been followed under those circumstances.

departments and professorships, as may be required to teach, in the most thorough manner, such branches of learning as are related to agriculture and the mechanic arts, and military tactics, without excluding other scientific and classical studies.

(110 ILCS 305/1) (from Ch. 144, par. 22)

Sec. 1. The Board of Trustees of the University of Illinois shall be a body corporate and politic, and by that name and style shall have perpetual succession, have power to contract and be contracted with, to sue and be sued, provided that any suit against the Board based upon a claim sounding in tort must be filed in the Court of Claims, to plead and be impleaded, to acquire, hold, and convey real and personal property; to have and use a common seal, and to alter the same at pleasure; to make and establish by-laws, and to alter or repeal the same as they shall deem necessary, for the management or government, in all its various departments and relations, of the University of Illinois, for the organization and endowment of which provision is made by this act. (Source: P.A. 84-1236.)

As the CAFT report correctly states, when the Chancellor decided not to forward the hiring recommendation to the Board, Dr. Salaita was neither simply a job candidate nor an employee. It is unfair, in our view, to excoriate the Chancellor's actions when she was working within such a policy vacuum. The CAFT report authors misstate the situation when they assert that the Chancellor violated existing policies and procedures: when she made her decision, there *were* no policies and procedures codified in our governing documents about how to deal with this unprecedented, ambiguous situation.

The CAFT report is inaccurate on two other issues. One is the claim that the Chancellor did not notify or consult with the Provost (pp. 8, 21). The Chancellor did inform him – although it is true that she should have gone further and discussed her decision with the affected program head, LAS Dean, and authorized faculty leaders as well. There is no Statutory requirement that she do so; but it would have been more consistent with the principles and best practices of shared governance.

On the other hand, there is no guarantee that such consultation would have changed her decision.

The CAFT report also says, “She indicated that her initial understanding of the process was that it was her prerogative not to forward Dr. Salaita’s appointment to the Board of Trustees, and she only later discovered this understanding to be incorrect” (p. 8). But as the CAFT report itself quotes, she has precisely this power under Article III, Section 3d of the Statutes:

In case a recommendation from a college is not approved by the chancellor/vice president, the dean may present the recommendation to the president, and, if not approved by the president, the dean with the consent of the Board of Trustees may present the recommendation in person before the Board of Trustees in session.

The Statutes would not have laid out this avenue of appeal of the Chancellor’s decision (an avenue of appeal which was not pursued in this case) if it did not envision a circumstance in which it might apply.

The CAFT report goes on to say that this provision is “moot” (p. 21) because Provost Communication #3 states that, “The President has delegated administrative authority over academic appointments on this campus to the Chancellor, who has in turn delegated it to the Provost and Vice Chancellor for Academic Affairs.”

Several points of clarification are badly needed here. One is the meaning of “delegated authority,” which is always *provisional*. When an administrator in an overseeing position delegates responsibility to another, that does not contravene their own responsibility. Furthermore, a campus policy cannot render a Statutory provision “moot,” because the Statutes are the overriding authority. Finally, the campus policy statements in this area, when read separately, appear to be

inconsistent. Provost Communication #9, for example, says that the Provost should send a “final letter to deans and directors notifying them of those faculty members *to be recommended to the Chancellor and President for promotion.*” So while the Provost’s role in promotion and tenure is central, this Communication reasserts that the Chancellor and President are still “in the loop.”

The CAFT report mistakenly implies that Provost Communication #3 removes the Chancellor and President from the process entirely (and hence that the Chancellor’s intervention in the Salaita case was inappropriate). But the clear language of Provost Communication #9, and the Statutes, show that in principle and in practice the Chancellor is authorized to intervene in a hiring decision when she deems it in the campus’s best interests.

The Statutes, Article IX Section 4a, say that “All appointments, reappointments, and promotions of the academic staff, as defined in Article IX, Section 4a, shall be made by the Board of Trustees on the recommendation of the chancellor/vice president concerned and the president.” And, as Article III, Section 3d affirms, a recommendation that can be forwarded can also be withheld. There is nothing un-Statutory about the Chancellor’s actions in this case. Campus documents are inconsistent on the matter. And, as noted, none of these documents directly addresses the question of what to do when significant new information comes to light about a job candidate after an initial offer has been made.

2. On the role of the Board. As just quoted, the Statutes, Article IX Section 3a, say that “All appointments, reappointments, and promotions of the academic staff, as defined in Article IX, Section 4a, shall be made by the Board of Trustees on the recommendation of the chancellor/vice president concerned and the president.”

Provost Communication #9 says that “Promotion and tenure are granted upon action of the Board of Trustees,” and that “Final action on all promotions is reserved for the Board of Trustees.”

There is simply no question that the authority of the Board here is final. The fact that the Board has never intervened to reject a promotion case before (which we regard as a very good thing), does not mean that in unusual – indeed, unprecedented – circumstances like this one they do not retain the prerogative to take such action.

In light of these facts the discussion on p. 18 of the CAFT report is mistaken:

The university’s primary governance document, the Statutes, provides in Article IX, Section 3a, that “All appointments, reappointments, and promotions of the academic staff, as defined in Article IX, Section 4a, shall be made by the Board of Trustees on the recommendation of the chancellor/vice president concerned and the president.” This recognizes that the delegation of authority passes from the Board to administrative officers, who in turn delegate those to the faculty as described in Article III, Section 3d, which assigns to the departments comprising relevant faculty the responsibility to

initiate academic (faculty) appointments: “Recommendations to positions on the academic staff shall ordinarily originate with the department, or in the case of a group not organized as a department with the person(s) in charge of the work concerned.” This is consistent with the concept that academic appointments should be formulated by those most knowledgeable in the subject area.

According to this interpretation, the Board delegates responsibility to university and campus administrative officers, who in turn delegate responsibility to academic units. The implication seems to be that once an academic unit makes a recommendation on faculty hiring or promotion, upper levels of administration have no rights to reverse them. This confuses the “responsibility to initiate academic (faculty) appointments” with the *making* of academic appointments. It overlooks the clear meanings of the words “originates” and “recommends”: at each level a recommendation is made to the level above, and any recommendation is just that, a recommendation, not a final decision. The only final decision rests with the Board of Trustees.

The Statutes are quite clear on this point (Article XIII Section 7):

The Board of Trustees is charged by law with full responsibility for administering the University. Although the board may properly delegate authority to its duly designated officers and agencies, as indeed it has done since the establishment of the University in practical recognition of its own limitations to determine and resolve, in the first instance, complex and continuing problems of internal organization and educational policy, it cannot divest itself of the ultimate responsibility, imposed upon it by law, of governance of the University.

In the Salaita case, the Board of Trustees made a final determination of the case on September 11, 2014, in response to a recommendation from the Chancellor and President. There are no provisions anywhere in the Statutes or in any other policy document for reopening a case once the Board has made a final determination.

3. On academic freedom and extramural speech. The principle that faculty retain the free speech rights of all citizens is crucial. In most instances the positions that faculty might take in the public sphere have nothing to do with their professional competence and responsibilities. But there are two aspects of this issue that are complicated by the facts of this particular case.

One is when public comments do directly relate to the faculty member’s areas of teaching and scholarship, and provide insight into the level and quality of their thought. The CAFT report rightly points to this complication, and adds that it is even more vexed in Dr. Salaita’s case, since he explicitly rejects this distinction in his own characterization of his work (p. 28).

The other complicating issue is the evolving nature of social media and the ways in which faculty use them. A scholar’s reputation, visibility, and influence might

be much more widely established through their blog or Twitter postings than through their formal publishing; certainly the number of one's Facebook or Twitter followers can dwarf the number of one's article downloads or citations. Many students actively follow the social media postings of their professors, and this is both a venue of teaching and a position of professional role-modeling. The idea that teaching only pertains to what happens in the classroom and that "extramural" utterances are entirely separate is rendered obsolete by the use and impact of these new technologies.

In such a world, it is entirely predictable and appropriate that the full gamut of a candidate's public writings and utterances related to their area of academic expertise will be taken into consideration at the hiring stage. In an era when the first thing people do in a hiring process is Google a candidate's name, it is only prudent to realize that everything you do and say online is available to decision-makers.

4. On civility. We agree that the standard of "civility" is not an adequate basis for dismissal. Statements from campus and university leaders in this regard were overly broad and subject to misinterpretation. But there are two complicating factors here.

While public criticism has focused on the civility issue, the CAFT report makes clear that the rationale for the decision to reverse Dr. Salaita's hiring went beyond a distaste for rude behavior, finding the basis for the rejection of the hiring recommendation in "personal and disrespectful words or actions that demean and abuse either viewpoints themselves or those who express them" (p. 7). The Chancellor has spoken repeatedly about the campus's responsibility toward its students and toward intellectual rigor: "We have a particular duty to our students to ensure that they live in a community of scholarship that challenges their assumptions about the world but that also respects their rights as individuals" (pp. 7-8); "As chancellor, it is my responsibility to ensure that all perspectives are welcome and that our discourse, regardless of subject matter or viewpoint, allows new concepts and differing points of view to be discussed in and outside the classroom in a scholarly, civil and productive manner" (p. 8). The Chancellor also characterized Dr. Salaita's tweets as "harassing, intimidating, [...] hate speech," and as "inflammatory" (p. 9). Others have seen in his comments borderline incitements to violence.

One can dispute these characterizations, but they raise a host of different issues beyond simply the tone or politeness of Dr. Salaita's comments. They go far beyond matters of "civility" – they go to the heart of Dr. Salaita's willingness to acknowledge the legitimacy of views that differ from his own and his pattern of employing hateful and divisive rhetoric *in his scholarly area*. These clearly raise questions that are pertinent to an assessment of his qualifications, and while observers differ in their interpretations of these comments, it is misleading to treat the concerns they raise as limited merely to matters of good manners or tone.

Related to this point, while civility (or more precisely, incivility) may not be a criterion for dismissal in itself, it can be an indicator of academic dispositions that *are* pertinent to professional competence. A person may be occasionally – or even habitually – uncivil as a consequence of a testy demeanor, arrogance, impatience, moments of anger, and so on. These may not reflect well on someone’s personality, but we should and do tolerate this sort of incivility in the academic world.

But the term “incivility” can also indicate something else, which does go to professional competence (or “fitness”): disrespect for other points of view, a tendency to oversimplify complex problems and reduce them to provocative sound bites, personalizing intellectual disputes and attributing to intellectual opponents bad motives, and so on. These are not merely issues of manners or tone: they indicate an orientation toward academic work that is inconsistent with intellectual inquiry and with teaching students to develop critical skills based on that inquiry, as well as a more general attitude and approach to dealing with scholarly disagreement. It is just such aspects of academic disposition that many observers have perceived in the controversial “tweets” and that raised concerns about the professional fitness of Dr. Salaita. Such factors are clearly fair game in an academic hiring decision (CAFT agrees: p. 23).

5. On professional fitness. One of the most important points in the CAFT review is that the assessment of Dr. Salaita’s candidacy ought to have gone to matters of professional fitness. They conclude: “We do believe, however, that the Chancellor has raised a legitimate question of whether his professional fitness adheres to professional standards” (p. 31).

We agree: professional fitness is an employment requirement stated in both AAUP guidelines and our own university Statutes. We have tried to show that despite the disproportionate attention to the “civility” issue, many of the concerns raised by the Chancellor and others *did* go to questions of professional fitness.

None of this negates the fact that both procedurally and substantively, such a review ought to have proceeded differently. Here we turn to the proposed remedy outlined by CAFT:

[W]e recommend that Dr. Salaita’s candidacy be remanded to the College of Liberal Arts and Sciences for reconsideration by a body of qualified academic experts. Dr. Salaita should be provided the opportunity to respond to any proposed findings of professional unfitness before the body concludes its proceedings (p. 31).

Several crucial questions are not addressed by the CAFT proposal. Why should the locus of this review be the LAS college? What is meant by “qualified academic expert”? Who should decide the membership and composition of such a committee? What is the rationale for recommending that Dr. Salaita be afforded an opportunity to respond to any potential findings of professional unfitness, a privilege never normally given to any other job candidate?

Other questions go to the substance of such a committee review. CAFT proposes that the committee not review again Dr. Salaita's scholarship ("Dr. Salaita's scholarship has already been reviewed rigorously, according to all normal and appropriate procedures . . ." p. 29), but simply the question of his professional fitness. But it might be that the content of his summer Twitter comments, which were not available to the committees who reviewed his scholarship, force a reassessment of some of his previous publications. We do not see how a review could be limited only to the summer Twitter comments, several of which are included in the CAFT report.

A further issue is whether Dr. Salaita's copious comments, interviews, and public speeches made *since* the decision not to hire him should be taken into account in assessing his fitness today. These were not factors in the decision taken last September, but they are additional evidence available now.

Particularly in light of his comments about the University of Illinois ("My academic career was destroyed over gross mischaracterizations of a few 140-character posts."),³ its administration and many of its faculty ("When we speak of the University of Illinois, there are at least two campuses in evidence: the one represented by upper administration and its handful of faculty sycophants, whose actions have inspired justifiable scorn; and the one inhabited by thoughtful, critical teachers and learners working very hard to maintain institutional decency in dreadful conditions."),⁴ it must be asked whether the circumstances of potentially hiring him now have changed. What is the likely impact on the university of hiring someone who has spent months publicly attacking it?

In addition, it must seriously be asked how such a review could possibly take place on this campus today. Last summer, most faculty did not know who Dr. Salaita was, and a dispassionate review might have been possible. But now the Salaita case has been debated extensively in the campus Senate, in the press, and in academic units across the campus, especially in LAS. The divergence of intensely held views on this case has created deep rifts among faculty members, particularly in that College, and the Dean of LAS herself has spoken of the case's "painful and frustrating consequences for both faculty and students."⁵ The dispute remains deeply politicized. Would it be possible to find faculty to undertake such a review who do not have already-formed views on the matter? Or would the staffing of such a committee simply be a proxy vote for its conclusions?

CAFT has suggested that there are legitimate questions of professional fitness to

³ <http://www.chicagotribune.com/news/opinion/commentary/ct-steven-salaita-tenure-jews-twitter-tweets-univ-20140929-story.html>

⁴ "Steven Salaita: U. of I. destroyed my career"

⁵ <https://www.facebook.com/notes/steven-salaita/some-thoughts-on-my-colleagues-at-the-university-of-illinois/10205094833878985>

"Some Thoughts on My Colleagues at the University of Illinois"

⁶ Email message from Dean Barbara Wilson to LAS Faculty, December 1, 2014.

be considered, but is that in fact what would result from such a process?

If the Dean of LAS were tasked with appointing committee members, what demands would she be subject to from her own faculty? What pressures would the committee members suffer from their department and college colleagues, on both sides of the issue? How could faculty members whose tenure or promotion has not yet been approved feel secure serving in such a capacity?

In short, we see no reason to believe that a fair and objective review of Dr. Salaita's professional fitness is possible in the highly politicized and polarized campus atmosphere that exists. Nor do we have any idea of where to find disinterested "academic experts" who could carry it out.

But the most serious limitation of the CAFT proposal is that it is silent on the question of what would happen *after* this committee makes a recommendation. There are only two possibilities.

What happens if a committee of "qualified academic experts" finds that in fact the totality of evidence *does* raise concerns about Dr. Salaita's professional fitness? Would this satisfy his supporters, here on campus, and elsewhere, that "due process" had been served and that the issue is now settled? Every indication from his supporters, including the Illinois branch of the AAUP,⁶ is that it would not end the boycott, would not remove the risk of AAUP censure, and would not end the controversy on or off campus. The committee's report, however carefully argued and evidenced, would be attacked, its members would be called "sycophants" backing the administration view, and claims would be made that it was composed to sabotage Dr. Salaita's chances. This would not end the controversy, but just give it new life.

On the other hand, what happens if a committee finds that there is no basis for challenging Dr. Salaita's hiring on the basis of professional fitness? Some parts of the CAFT report seem to suggest that this conclusion would be final and decisive. According to the Statutes, it could not be. A review by a college committee would still be subject to further review, perhaps by the campus promotion and tenure committee; certainly it would still be submitted as a recommendation to the same Provost, Chancellor, President, and Board of Trustees who rejected his candidacy in the first place. While there will be a couple of seats changing on the Board, and a new President coming into office next summer, there is no reason to think that the outcome would change.

None of this proposed process can contravene the Statutory roles of the Chancellor, the President, or the Board. In particular, as we have noted, the Board's role as the final arbiter of tenure/promotion cases is codified in our

⁶ The Illinois branch of the AAUP has made clear that any review of the Salaita case can have only one outcome that they would accept: reinstatement.

<http://academeblog.org/2014/12/26/justice-denied-to-steven-salaita-a-critique-of-the-university-of-illinois-committee-on-academic-freedom-and-tenure-report/>
<http://academeblog.org/2014/12/31/whats-wrong-and-right-about-the-caft-report-on-salaita/>

governing documents and in state law.

And so such a committee finding would simply reopen campus wounds that are just beginning to heal, recycle the same arguments, and revisit the same condemnations of the administration, from the same quarters. If this dispute drags on until the new President takes office, that means months more of campus disruption and division – all to the same outcome as far as Dr. Salaita is concerned.

Conclusion

The Board has voted overwhelmingly not to hire Dr. Salaita. There are no Statutory provisions for revisiting that decision, and no indication that the Board would reconsider it even given a committee recommendation that it should do so.

Many – perhaps most – faculty and students on this campus support the decision not to hire Dr. Salaita, even if they are uneasy about the way in which that decision was made. It is much more important to put policies and procedures in place that will avoid situations like this in the future, than to imagine that this particular decision can or will be changed. Keeping that hope alive simply throws new fuel on the controversy.

It is one thing to say that certain processes ought to have been followed last summer, and on this we agree; but it does not follow that those processes can or should be invoked now, months after a decision has already been finalized by the Board. Nor is it possible, for reasons we have laid out, that a fair and impartial campus review of the substance of the Salaita decision can be undertaken now, or that it could proceed without exacerbating divisions and damage to the campus.

If there were any indication that doing so would attenuate the boycotts, the criticisms of the campus by the AAUP, and the condemnations of the university by Salaita supporters both externally and within, then there might be a reason to go through a new process even if the outcome would not change. The standards of due process would be satisfied, albeit retroactively. But such a process would make none of those things better – and if anything, would make them even worse.

Dr. Salaita retains all the rights of any citizen to seek remedy via the courts, or through a negotiated settlement. This is the one point on which CAFT, the Chancellor, and nearly all observers agree. We urge all parties to pursue a just settlement that fairly compensates Dr. Salaita for his professional losses, and we wish him success in seeking a faculty position elsewhere.

Finally, we do note the need to clarify campus documents in relation to each other and to the Statutes in order to avoid future misunderstandings about hiring and promotion and tenure processes. And there remains the question of what to do in potential future cases where new information comes to light about

a job candidate midway through the search process, after an offer has been made but before it has been finalized. No future Chancellor or President should have to deal with a situation in which their procedural obligations are not perfectly clear.